

# **Consolidated Guidance About Materials Licenses**

Guidance For Agreement State Licensees About NRC Form 241 “Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Waters” and Guidance For NRC Licensees Proposing to Work in Agreement State Jurisdiction (Reciprocity)

## **Draft Report for Comment**

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## ABSTRACT

As part of its redesign of the materials licensing process, NRC is consolidating and updating numerous guidance documents into a single comprehensive repository as described in NUREG-1539, “Methodology and Findings of the NRC’s Materials Licensing Process Redesign,” dated April 1996, and draft NUREG-1541, “Process and Design for Consolidating and Updating Materials Licensing Guidance,” dated April 1996. NUREG-1556, Vol. 19, “Consolidated Guidance about Materials Licenses: Guidance For Agreement State Licensees About NRC Form 241 ‘Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Waters’ and Guidance For NRC Licensees Proposing to Work in Agreement State Jurisdiction (Reciprocity),” dated July 2000, is the nineteenth guidance developed for the new process and is intended for use by Agreement State licensees, NRC licensees, and NRC staff and will also be available to Agreement States. This document also provides contact organization guidance to NRC licensees who wish to work in Agreement States.

This document combines and updates the guidance for applicants and licensees previously found in NRC Inspection Manual Chapter 1220, “Processing of ‘Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, and Offshore Waters,’ and Inspection of Agreement State Licensees Operating Under 10 CFR 150.20”; NRC Information Notice No. 90-15: “Reciprocity: Notification Of Agreement State Radiation Control Directors Before Beginning Work In Agreement States”; All Agreement States Letter 96-022, Policy and Guidance Directives (P&GD) 83-19 “Jurisdiction at Reactor Facilities” and 84-17 “Jurisdiction 10 CFR Parts 30, 40 and 70 Licenses at Reactor Facilities.” In addition, this draft report also contains pertinent information found in Technical Assistance Requests and Information Notices, as listed in Appendix F.

This draft report is strictly for public comment and is not for use in preparing or reviewing notifications of proposed use in NRC jurisdiction until it is published in final form. It is being distributed for comment to encourage public participation in its development. NRC is requesting comments on the information provided about the notification of proposed use in NRC jurisdiction. Please submit comments within 30 days of the draft report’s publication. Comments received after that time will be considered if practicable.



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## FOREWORD

The United States Nuclear Regulatory Commission (NRC) is using Business Process Redesign (BPR) techniques to redesign its materials licensing process. This effort is described in NUREG-1539, "Methodology and Findings of the NRC's Materials Licensing Process Redesign," dated April 1996. A critical element of the new process is the consolidating and updating of numerous guidance documents into a NUREG series of reports.

Below is a list of volumes currently included in the NUREG-1556 series:

<b>Vol. No.</b>	<b>Volume Title</b>	<b>Status</b>
1	Program-Specific Guidance About Portable Gauge Licenses	Final Report
2	Program-Specific Guidance About Radiography Licenses	Final Report
3	Applications for Sealed Source and Device Evaluation and Registration	Final Report
4	Program-Specific Guidance About Fixed Gauge Licenses	Final Report
5	Program-Specific Guidance about Self-Shielded Irradiators	Final Report
6	Program-Specific Guidance about 10 CFR Part 36 Irradiators	Final Report
7	Program-Specific Guidance about Academic, Research and Development, and Other Licenses of Limited Scope	Final Report
8	Program-Specific Guidance about Exempt Distribution Licenses	Final Report
9	Program-Specific Guidance about Medical Use Licenses	Draft
10	Program-Specific Guidance about Master Material Licenses	Draft
11	Program-Specific Guidance about Licenses of Broad Scope	Final Report
12	Program-Specific Guidance about Possession Licenses for Manufacturing and Distribution	Draft
13	Program-Specific Guidance about Commercial Radiopharmacy Licenses	Final Report
14	Program-Specific Guidance about Well Logging, Tracer, and Field Flood Study Licenses	Final Report
15	Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses	Draft
16	Program-Specific Guidance About Licenses Authorizing Distribution To General Licensees	Draft

## FOREWORD

Vol. No.	Volume Title	Status
17	Program-Specific Guidance About Licenses for Special Nuclear Material of Less Than Critical Mass	Draft
18	Program-Specific Guidance About Service Provider Licenses	Draft for Comment
19	Guidance For Agreement State Licensees Proposing to Work in NRC Jurisdiction (Non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Waters) and Guidance For NRC Licensees Proposing to Work in Agreement State Jurisdiction (Reciprocity)	Draft for Comment
20	Guidance About Administrative Licensing Procedures	Draft for Comment

The current document, draft NUREG-1556, Vol. 19, “Consolidated Guidance about Materials Licenses: Guidance For Agreement State Licensees About NRC Form 241 ‘Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Waters’ and Guidance For NRC Licensees Proposing to Work in Agreement State Jurisdiction (Reciprocity),” dated July 2000, is the nineteenth guidance developed for the new process.

A team composed of NRC staff from Headquarters and Regional Offices drafted this document, drawing on their collective experience in radiation safety in general and as specifically applied to reciprocal recognition of Agreement State Licenses. Representatives of NRC’s Office of the General Counsel provided legal perspectives.

This report represents a step in the transition from the current paper-based process to the new electronic process. This draft document is available on the Internet at the following address: <http://www.nrc.gov/NRC/NUREGS/SR1556/V19/index.html>.

Address comments to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Hand deliver comments to 11545 Rockville Pike, Rockville, MD, between 7:15 a.m. and 4:30 p.m. on Federal workdays. Comments may also be submitted through the Internet by addressing electronic mail to [dlm1@nrc.gov](mailto:dlm1@nrc.gov).

This describes and makes available to the public information on: methods acceptable to the NRC staff for implementing specific parts of the Commission’s regulations; techniques the NRC staff uses in evaluating reports; and data the NRC staff needs to review reports of reciprocity activities. Draft NUREG-1556, Vol. 19, “Consolidated Guidance about Materials Licenses: Guidance For Agreement State Licensees About NRC Form 241 ‘Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Waters’ and Guidance



## FOREWORD

For NRC Licensees Proposing to Work in Agreement State Jurisdiction (Reciprocity),” dated July 2000, is not a substitute for NRC regulations, and compliance is not required. The approaches and methods described in this draft report are provided for information and comment only.

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## **ABBREVIATIONS**

ACA	Antarctic Conservation Act
ADAMS	Agency-wide Document Access and Management System
AEA	Atomic Energy Act
DOD	United States Department of Defense
DOE	United States Department of Energy
DOT	United States Department of Transportation
EPA	United States Environmental Protection Agency
FAA	Federal Aviation Administration
IN	Information Notice
YOU	Memorandum of Understanding
NASA	National Aeronautics and Space Administration
NSF	National Science Foundation
NRC	United States Nuclear Regulatory Commission
CFO	Office of Chief Financial Officer
OMB	Office of Management and Budget
OCR	Optical Character Reader
O.C.	Office of General Counsel
STP	Office of State and Tribal Programs
P&G.D.	Policy and Guidance Directive
SO	Radiation Safety Officer
TAR	Technical Assistance Request



## DEFINITIONS

For the purpose of this document:

*Agreement State.* Any State with which NRC (or the Atomic Energy Commission) has entered into an effective agreement under Subsection 274b, “Cooperation with States,” of the Atomic Energy Act of 1954, as amended, that gives them the authority to license and inspect byproduct, source, and noncritical quantities of special nuclear materials used or possessed within their borders.

*Clarification.* Providing information, on NRC Form 241 or equivalent, that modifies administrative items on the form, e.g., change of address for the licensee; licensee contact; licensee telephone and fax number; client telephone or work location telephone numbers; addition or deletion of days of use for an already registered location; change in information about already registered devices; updating of the expiration date of a license. Clarifications filed by facsimile are considered acceptable if the licensee receives telephone or facsimile confirmation that NRC has received the facsimile.

*Exclusive Federal Jurisdiction.* An area over which the Federal government exercises legal control without interference from the jurisdiction and administration of State law.

*Filing.* Filing is the presentment of documents to NRC reporting proposed activities in non-Agreement States, areas of exclusive Federal jurisdiction or offshore waters. Filing of Form 241 will be considered complete when the documents are received at NRC, either by mail or by facsimile.

*Initial Filing.* Notification to NRC on the first NRC Form 241 filed within a calendar year by an Agreement State licensee requesting reciprocity for activities conducted in non-Agreement States, areas of exclusive Federal jurisdiction, or in offshore waters. This initial filing may be for multiple locations, clients, and unspecified dates of use. Filing by facsimile is considered acceptable if the facsimile contains a copy of the check or credit card application that will be mailed to meet fee requirements; if the licensee receives confirmation by telephone or facsimile that NRC has received the facsimile; and if NRC receives, within 3 days, NRC Form 241, four copies of the Agreement State license and the appropriate fee.

*Non-Agreement State.* Any State that is not an Agreement State.

*Offshore Waters.* That area of land and water, beyond Agreement States’ Submerged Lands Act jurisdiction, on or above the U.S. Outer Continental Shelf.

*Reciprocity.* Commission recognition of certain Agreement State licenses for work performed in areas of NRC jurisdiction.

## DEFINITIONS

*Reciprocity Activities.* Activities conducted by Agreement State licensees in non-Agreement States, areas of exclusive Federal jurisdiction, and offshore waters, under the general license provisions of 10 CFR 150.20.

*Revision.* Filing of NRC Form 241 or letter for additional work locations or clients, or for changes to the radioactive material, or for work activities different from the information submitted on the initial NRC Form 241. Filing by facsimile is acceptable if the facsimile contains a copy of the check or credit card application that will be mailed to meet fee requirements; if the licensee receives telephone or facsimile confirmation that NRC has received the facsimile; and if NRC receives, within 3 days, NRC Form 241 or a letter and the appropriate fee.



# 1 PURPOSE OF DRAFT REPORT

This document is strictly for public comment and is not for use in preparing or reviewing NRC Form 241, “Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Waters,” until this document is published in final form.

This draft report provides important information to Agreement State licensees on submitting NRC Form 241, “Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Waters.” To engage in licensed activities in NRC jurisdiction, NRC must receive this report at least 3 days before the Agreement State licensee engages in activities permitted under the General License established by 10 CFR 150.20. This draft report also contains NRC criteria for evaluating NRC Form 241. In addition, it provides NRC licensees seeking to conduct licensed activities in areas subject to the regulatory authority of an Agreement State with basic information on contacting the appropriate Agreement State Radiation Control Program to either obtain a specific license from that Agreement State or comply with the reciprocity requirements of that Agreement State. This information on contacting the appropriate Agreement State Radiation Control Program would also apply to Agreement State licensees seeking to conduct licensed activities within Agreement States other than their own.

It is necessary for a licensee to know the jurisdictional status of the area of proposed activities to determine whether NRC or an Agreement State has regulatory authority. Chapter 2, “Reciprocal Recognition of Specific Licenses,” provides information on determining the jurisdictional status of areas of proposed activities.

Chapter 8, “Proprietary Information,” provides information for properly protecting proprietary information, such as a client list, that is submitted to NRC along with NRC Form 241. Information about the specific requirements for particular uses of licensed materials may be found in the applicable volume of the NUREG-1556 series, or other appropriate guidance documents.

This document is intended to be used for all NRC byproduct, source, and special nuclear material licenses that are licensed in accordance with Title 10 of the Code Federal Regulations, Parts 30, 34, 35, 39, 40, and 70; and for all Agreement State byproduct, source, and special nuclear material licenses that are licensed in accordance with the corresponding Agreement State regulations, provided that they include authorization for the use of licensed material at temporary job sites.

**Note:** The text of these and other NRC regulations may be found at [<http://www.nrc.gov/NRC/CFR/index.html>](http://www.nrc.gov/NRC/CFR/index.html).

This draft report also identifies general information that is needed to revise or clarify the information provided in an initial NRC Form 241 (Appendix B), “Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Waters.” The information collection requirements in 10 CFR Parts 30, 40 and 70 and in NRC Form 241 have

## PURPOSE OF DRAFT REPORT

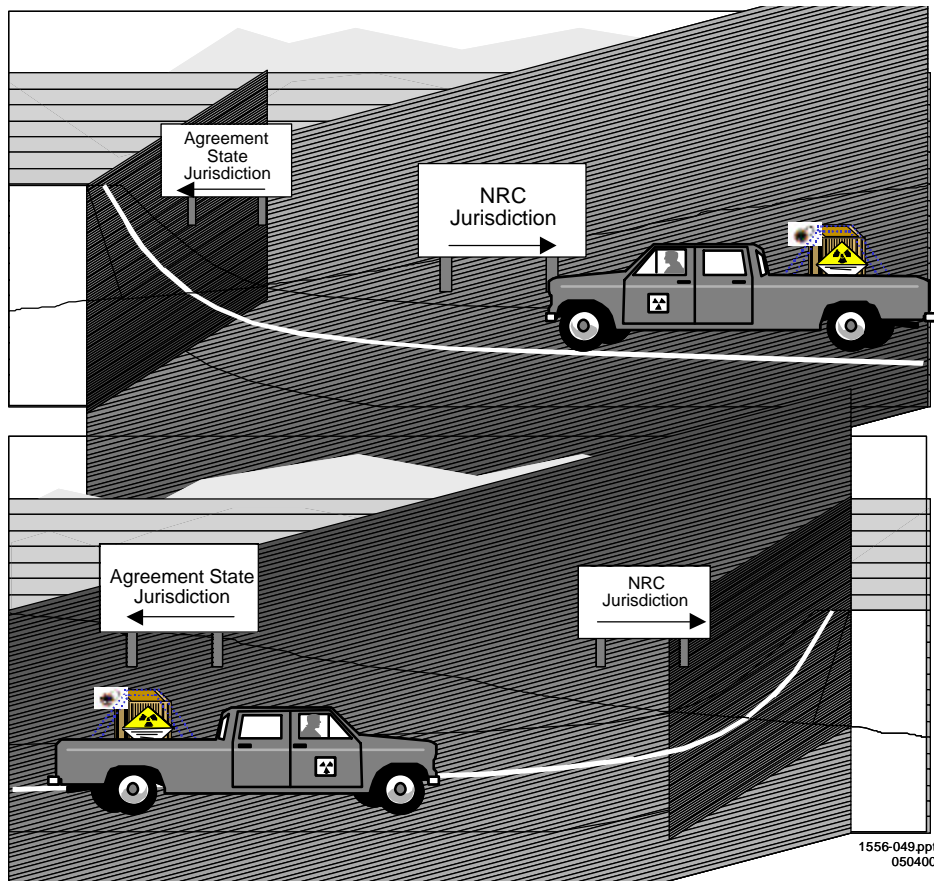
been approved under the Office of Management and Budget (OMB) Clearance Nos. 3150-0017, 3150-0020, 3150-0009, and 3150-0013, respectively.

Notes and References are self-explanatory and may not be found for each item on NRC Form 241.

NRC Form 241 may not have sufficient space for applicants to provide full responses to Items 8 through 15 for additional clients, locations, and dates; as indicated on the form, the information pertinent to those items is to be provided on separate sheets of paper and submitted with the completed NRC Form 241.

## 2 RECIPROCAL RECOGNITION OF SPECIFIC LICENSES

NRC and Agreement State specific licensees are responsible for finding out, in advance, the jurisdictional status of the specific areas where they plan to conduct licensed activities when those locations are not specifically authorized by their license.



**Figure 2.1 Reciprocity.** *Performing work in other jurisdictions is possible through reciprocal recognition of specific licenses.*

NRC may recognize certain Agreement State licenses for work performed in areas of NRC jurisdiction. The recognition of these licenses is called reciprocity. NRC regulations in 10 CFR 30.3 require that “except for persons provided for in 10 CFR Part 150, no person shall manufacture, produce, transfer, receive, acquire, own, possess, or use byproduct material except as authorized in a specific license.”

10 CFR 150.20 provides that under certain conditions, “any person who holds a specific license from an Agreement State, **where the licensee maintains an office for directing the licensed activity and retaining radiation safety records**, is granted a general license to conduct the same activity in: (I) non-Agreement States; (ii) Areas of Exclusive Federal jurisdiction within Agreement States; and (iii) Offshore waters.”

## RECIPROCAL RECOGNITION OF SPECIFIC LICENSES

Agreement State licensees who wish to conduct licensed activities in a non-Agreement State, in an area of exclusive Federal jurisdiction within an Agreement State, or in offshore waters, should contact the NRC Regional Office in which the Agreement State that issued their license is located. See Figure 2.2 for the appropriate addresses and telephone numbers. Figure 2.2 also identifies the Agreement States.

Agreement State licensees who propose to conduct licensed activities in NRC jurisdiction must either obtain a specific NRC license or file for reciprocity by submitting an NRC Form 241, "Report of Proposed Activities in non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Waters," with the appropriate NRC Regional Office as described in 10 CFR 150.20(b)(1). An NRC Form 241 shall be filed at least 3 days before engaging in each activity for the first time in a calendar year. An NRC-signed copy of NRC Form 241 will be returned to the licensee to acknowledge its receipt. If a submittal cannot be filed 3 days before the proposed activity, because of an emergency or other reason, the Regional Administrator may waive the 3-day time requirement provided that the remaining provisions of 10 CFR 150.20(b)(1) are satisfied. Emergency requests should be directed to the appropriate Regional Office by telephone prior to initiation of activity. Activities conducted under the general license granted by 10 CFR 150.20 are limited to 180 days in any calendar year. An exception to this limit is that activities in offshore waters may be conducted for an unlimited period of time. NRC regulations at 10 CFR 31.6 refer to the installation of devices generally licensed pursuant to 10 CFR 31.5 and other authorized activities. The manufacturer, installer, or servicer of a device holding a specific license to do so, from NRC or an Agreement State, may perform those functions anywhere in NRC jurisdiction without filing for reciprocity, including in offshore waters as defined in 10 CFR 150.20.

Failure to obtain prior approval can result in enforcement action which may include civil penalties.

The intent of 10 CFR 150.20 is to allow Agreement State licensees to work in NRC jurisdiction for short periods of time without having to obtain a specific NRC license, not to circumvent NRC licensing. Therefore, a legal entity that performs the same licensed activity under more than one Agreement State license may file only one NRC Form 241 for this activity in a calendar year, limiting the entity's total activities in NRC jurisdiction to 180 days. For example, a company authorized to conduct radiography under both a Texas license and a Mississippi license may file only one NRC Form 241 to conduct radiography in NRC jurisdiction, limiting their radiography activities in NRC jurisdiction to 180 days in a calendar year. However, a legal entity holding two or more Agreement State licenses for different activities may file one NRC Form 241 for each type of activity in any calendar year. For example, a company authorized to conduct radiography under a New Mexico license and gauge work under a Colorado license may file a separate NRC Form 241 for each activity, allowing 180 days for radiography and 180 days for gauge work in NRC jurisdiction in a calendar year.

Agreement State licensees may be subject to NRC enforcement action should they fail to file for reciprocity or obtain a specific NRC license before working in non-Agreement States, areas of exclusive Federal jurisdiction within Agreement States, or in offshore waters. In addition, Agreement State licensees operating under reciprocity are subject to NRC inspection and to enforcement actions, when violations are found during an NRC inspection.

For information on NRC inspection, investigation, enforcement, and other compliance programs, see the current version of “General Statement of Policy and Procedures for NRC Enforcement Actions,” NUREG-1600 and the appropriate NRC Inspection Manual chapters. The current version of NUREG-1600 is available electronically at <<http://www.nrc.gov/OE>>. For hard copies of the current version of NUREG-1600 and NRC Inspection Manual chapters, see the Notice of Availability (on the inside front cover of this report).

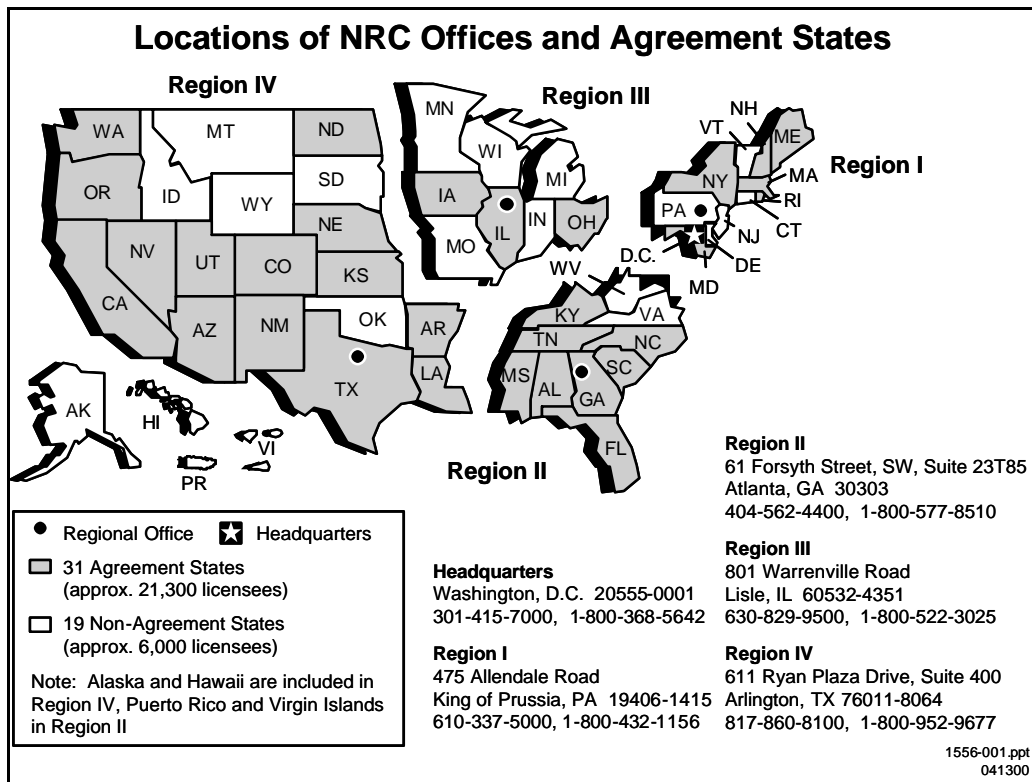
Chapter 7, “Contents of NRC Form 241,” provides specific information on completing NRC Form 241. Agreement State licensees conducting licensed activities in NRC jurisdiction must comply with the terms of their Agreement State license and with all applicable NRC rules and regulations.

In general, NRC licensees who wish to conduct licensed activities in an Agreement State and Agreement State licensees who wish to conduct licensed activities in an Agreement State other than their own, should contact the appropriate State’s radiation control program office for information about that State’s regulations. NRC licensees, particularly radiographers, well loggers, and portable gauge users, are authorized to use radioactive material at temporary job sites. However, this authorization does not permit operations in Agreement State jurisdiction (except for licensees who are Federal Agencies). In these circumstances, NRC licensees and Agreement State licensees are subject to the appropriate Agreement States’s regulations. Federal Agencies licensed by NRC, however, are not subject to Agreement State radiation control regulations. Thus, Federal licensees who are authorized to work at temporary job sites under their NRC licenses may do so anywhere in the United States and its territories. Some Agreement States have reciprocity provisions that permit NRC licensees to perform work using NRC-licensed radioactive materials in their States. Some Agreement States do not allow reciprocity so a license must be obtained. In general, Agreement State regulations are similar to NRC regulations. However, to ensure compliance with the Agreement State’s reciprocity requirements, licensees are advised to request authorization from the appropriate regulatory authority well in advance of scheduled use of licensed material. A list of Agreement State agency contacts is available by choosing “Directories” on the NRC Office of State and Tribal Programs’ (STP) Home Page <<http://www.hsrdo.nrc.gov/nrc/home.html>> .

Table 2.1 presents a quick way to check on which agency has regulatory authority over proposed locations of work.

**Table 2.1 Who Regulates the Activity?**

<b>Licensee and Proposed Location of Work</b>	<b>Regulatory Agency</b>
NRC licensee (Federal Agency) regardless of location (however, Department of Energy [DOE] and, under most circumstances, its prime contractors are exempt from licensing [10 CFR 30.12])	NRC
NRC licensee (non-Federal) in non-Agreement State, U.S. territory, possession, or offshore waters	NRC
NRC licensee (non-Federal) in Agreement State at Federally controlled site subject to exclusive Federal jurisdiction	NRC
NRC licensee (non-Federal) in Agreement State at Federally controlled site <i>not</i> subject to exclusive Federal jurisdiction	Agreement State
NRC licensee in Agreement State at non-Federal facility	Agreement State
Agreement State licensee in non-Agreement State, U.S. territory, possession, or offshore waters	NRC
Agreement State licensee in Agreement State at Federally controlled site subject to exclusive Federal jurisdiction	NRC
Agreement State licensee in Agreement State at Federally controlled site <i>not</i> subject to exclusive Federal jurisdiction	Agreement State
Agreement State licensee in a different Agreement State's jurisdiction	Agreement State



**Figure 2.2 U.S. Map.** Location of NRC Regional Offices and Agreement States.

**Reference:** NRC regulations are available electronically at the NRC's Internet web site at <http://www.nrc.gov/NRC/CFR.html>. Single copies of specific NRC regulations may be obtained from NRC Regional Offices. (See Figure 2.2 for addresses and telephone numbers.)

A current list of Agreement States and non-Agreement States (including names, addresses, and telephone numbers of responsible officials) is available by choosing "Directories" on the NRC STP's Home Page <http://www.hsrn.gov/nrc/home.htm>. The list may also be obtained upon request from NRC Regional Offices. (See Figure 2.2 for addresses and telephone numbers.)

## 2.1 EXCLUSIVE FEDERAL JURISDICTION

An area of exclusive Federal jurisdiction is an area over which the Federal Government exercises legal control without interference from the jurisdiction and administration of State law. This means that, in such areas, the Federal Government has sole jurisdiction for both civil (e.g., regulatory) and criminal matters. This sole jurisdiction includes issues involving health and environmental protection, such as the regulation of radioactive material use. Federal ownership of land does not necessarily mean that licensees are subject to NRC regulatory control when working on that site.

## RECIPROCAL RECOGNITION OF SPECIFIC LICENSES

In order for an area of exclusive Federal jurisdiction to be created, the State must relinquish its authority over the area to the Federal Government. Some of these areas were created several years ago, while new ones are created all the time. By the same token, the Federal Government will also relinquish jurisdiction over certain areas to the States when the areas no longer warrant exclusive Federal control. Whether a Federal enclave is an area of exclusive Federal jurisdiction must be determined case-by-case, since the status of such land is subject to change. Many, but not all, of these areas are on military bases where, for purposes of national security, the Federal Government believes it needs exclusive control.

NRC cannot effectively maintain accurate information regarding the jurisdictional status of Federal lands or facilities throughout the country, because of the large number of sites and the fact that their status is constantly changing. NRC recommends that licensees ask their local contact for the Federal Agency whose responsibility it is to exercise Federal control over the site (e.g., contract officer, base environmental health officer, district office staff, Judge Advocate General) to help determine the jurisdictional status of the land. A written statement concerning the jurisdictional status is not required for the licensee to file for reciprocity. However, it is recommended that the licensee obtain such a statement for future reference and inspection purposes.

Guidance developed by NRC's Office of State and Tribal Programs (STP) for determining jurisdictional status is found in Appendix B. In addition, a list of Federal Agency headquarters contacts may be obtained from STP. For the latest listing of Federal Agency contacts and telephone numbers, consult the Federal Executive Directory or your local telephone directory.

Agreement State licensees cannot conduct licensed operations in areas of exclusive Federal jurisdiction without either: (a) filing NRC Form 241 for reciprocity in accordance with 10 CFR 150.20(b); or (b) obtaining a specific NRC license. Information about the specific NRC requirements for particular uses of licensed materials may be found in the applicable volume of the NUREG-1556 series or other appropriate guidance documents.

An Agreement State licensee found to be conducting licensed activities in an area of exclusive Federal jurisdiction without an NRC license or without filing for reciprocity under 10 CFR 150.20, is potentially subject to escalated enforcement action, including civil penalties and orders. However, NRC will not take enforcement action against an Agreement State licensee for such violations if the licensee has evidence that it received a determination from the Federal Agency that the area is not under exclusive Federal jurisdiction. This evidence may be a written statement from the Federal Agency that provided the determination and the date that it was provided, or a written record of the name and title of the person at the Federal Agency who provided the determination and the date that it was provided.

For information on NRC enforcement and other compliance programs, see the current version of "General Statement of Policy and Procedures for NRC Enforcement Actions," NUREG-1600. The current version of NUREG-1600 is available electronically at <<http://www.nrc.gov/OE>>. For



hard copies of the current version of NUREG-1600, see the Notice of Availability (on the inside front cover of this report).

## 2.2 OFFSHORE WATERS AND HIGH SEAS

NRC maintains jurisdiction over licensed activities conducted in offshore waters. Offshore waters is defined as that area of land and water, beyond Agreement States' Submerged Lands Act jurisdiction, on or above the U.S. Outer Continental Shelf. The exact boundaries of these waters and the land area of the Shelf are not specified in 10 CFR 150.20 for each Agreement State. Contact your state licensing agency and/or NRC if specific questions arise. These specific questions will be decided on a case-by-case basis.

10 CFR 150.20(b)(4) states, in part, that the general license granted in 10 CFR 150.20(a) concerning activities in offshore waters authorizes any person who holds a specific license from an Agreement State to engage in the activities authorized for an unlimited period of time. In other words, activities conducted under reciprocity in offshore waters are not limited to 180 days in any calendar year. However, in accordance with 10 CFR 150.20 (b)(1), an Agreement State licensee is required to file an initial NRC Form 241 for each calendar year in which they conduct activities in offshore waters .

## 2.3 REACTOR FACILITIES

The possession and use of radioactive materials at a reactor facility prior to issuance of an operating license and subsequent to issuance of a construction permit are under exclusive NRC jurisdiction when the materials are directly connected with reactor operation and are needed during the construction and pre-operational phases of a reactor.

The possession and use of radioactive materials at a reactor facility that has an operating license are under exclusive NRC jurisdiction when the materials are used in connection with reactor operations. Contractors to the reactor licensee may not be separately licensed. All activities must be carried out under the operating license.

When the possession and use of radioactive materials at a reactor facility are not used in connection with reactor operations, the rule of exclusive NRC jurisdiction at reactor facilities does not apply. For example, use of byproduct material for performance of industrial radiography is not under exclusive NRC jurisdiction. A firm which holds an NRC or Agreement State license that authorizes performance of radiography may perform radiography at reactor sites pursuant to that license. If the reactor facility is located within an Agreement State, the appropriate license for the performance of radiography should be obtained from the Agreement State radiation control program. If the reactor facility is located within a non-Agreement State, NRC is the regulatory authority on site, and an Agreement State licensee should file for

## RECIPROCAL RECOGNITION OF SPECIFIC LICENSES

reciprocity by submitting NRC Form 241, as required by 10 CFR 150.20, or obtain a specific license issued pursuant to 10 CFR Part 34 from NRC.

### 2.4 NATIVE AMERICAN LANDS

Licensing issues concerning the possession and use of radioactive material on Native American land are currently under review by the Commission. Licensees who propose to conduct licensed activities on Native American land should contact the appropriate NRC Regional Office. Additional guidance will be available when the Commission has completed its review of this issue.

Tribal Governments or tribal members seeking a radioactive material license should contact the appropriate NRC Regional Office.

### 2.5 OUTER SPACE

The Commercial Space Launch Act of 1984 was enacted, among other purposes, to promote the development of commercial space activities, and the Act unequivocally designates the Department of Transportation (DOT) as the lead Federal Government Agency “to oversee and coordinate the conducting of commercial launch operations; issue and transfer commercial launch licenses authorizing those operations; and protect the public health and safety, safety of property, and national security and foreign policy interests of the United States.” The responsibilities of the DOT under this statute are carried out by the Office of the Associate Administrator for Commercial Space Transportation of the Federal Aviation Administration (FAA). The FAA’s jurisdiction over commercial space projects begins with the arrival of a launch vehicle at any launch site located in the United States, and its jurisdiction extends to accidental payload reentries and in-orbit activities arising out of a launch. The FAA has issued a final rule regarding commercial space transportation licensing regulations that contains useful guidance and information on the FAA’s licensing and regulatory process with respect to commercial space launches (see 64 FR 19585, April 21, 1999).

Currently, commercial launches take place from Federal launch ranges operated by the Department of Defense (DOD) and National Aeronautics and Space Administration (NASA). Launch operators bring launch vehicles to Federal ranges, such as Cape Canaveral Air Station, Vandenberg Air Force Base, White Sands Missile Range, and Wallops Flight Facility, for launch. Licensees who propose to conduct licensed activities as part of a space launch should contact the launch operators regarding jurisdiction at the launch range.

To the extent that a commercial space venture would involve the possession and/or use of nuclear materials *before* any space vehicle arrives at the launch site, NRC would exercise jurisdiction within non-Agreement States and in areas of exclusive Federal jurisdiction within an Agreement State.

## 2.6 ANTARCTICA

Antarctica is defined as that area of the world south of 60 degrees South latitude, as described in the International Antarctic Treaty (1959) and the Antarctic Conservation Act (ACA) (16 U.S.C. 2401 *et seq.*).

Presidential Memorandum #6646, dated February 2, 1982, designates the National Science Foundation (NSF) as the executive Federal manager for the United States Antarctic Program, assigning the entire management responsibility to NSF. The Antarctic Conservation Act (ACA) of 1978, as amended, implements the Antarctic Treaty and the Protocol on Environmental Protection to the Antarctic Treaty and recognizes NSF as the lead civilian Agency with responsibility for overseeing the United States' scientific activities in Antarctica. These include activities involving the use of source, byproduct, and special nuclear material. Under the ACA, NSF is directed to issue regulations as are necessary and appropriate to implement the Treaty, the Protocol, and the ACA, including waste management and disposal requirements. The NSF requires U.S. citizens to obtain an NSF permit for the use of certain materials in Antarctica, including radioactive materials, in accordance with NSF's implementing regulations in 45 CFR Part 671. Within its regulatory framework, NSF has adopted as policy the radiation protection standards for byproduct, source, and special nuclear material set forth in the NRC regulations in 10 CFR Part 20 and DOT regulations for packaging and transport of such radioactive materials; and the NSF ensures that the disposal of radioactive waste generated in Antarctica (but returned to the United States for disposal) is consistent with NRC, EPA, and Agreement State requirements.

Under the Atomic Energy Act of 1954 (AEA) as amended, NRC is responsible for regulating the use of byproduct, source, and special nuclear material within the United States and its territories, consistent with its mission to ensure adequate protection of the public health and safety, to promote the common defense and security, and to protect the environment.

Because of similar responsibilities, NRC and NSF have issued a Memorandum of Understanding (MOU), dated September 3, 1999. The purpose of this MOU is to clarify the responsibilities of NSF and NRC with respect to the safe use of radioactive materials in Antarctica, in order to avoid any duplication of effort and ensure efficient management of those materials. The MOU provides that NRC will not exercise any authority under the AEA to regulate the use of byproduct, source, and special nuclear material in Antarctica and recognizes the NSF's regulatory oversight, as described in 45 CFR Part 671 and in Foundation policies. NRC or its Agreement States, as appropriate, will resume regulatory authority over any byproduct, source, or special nuclear material that is regulated by the NSF in Antarctica if and when such material re-enters the United States or its territories.

Information regarding activities in Antarctica may be found on the NSF's web site at <<http://www.nsf.gov>>. As an alternative, contact the Director, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

## **2.7 U.S. TERRITORIES**

Other areas where NRC maintains jurisdiction are the U.S. Virgin Islands, Puerto Rico, and the U.S. Territories in the Pacific (American Samoa, Johnston Island, and Guam).

### 3 MANAGEMENT RESPONSIBILITY

NRC recognizes that effective radiation safety program management is vital to achieving safe and compliant operations. NRC believes that consistent compliance with its regulations provides reasonable assurance that licensed activities will be conducted safely. NRC also believes that effective management will result in increased safety and compliance. (The Agreement States also stress the importance of effective radiation safety program management.)

“Management” refers to the processes for conducting and controlling a radiation safety program and to the individuals who are responsible for those processes and who have authority to provide necessary resources to achieve regulatory compliance.

It is the Agreement State licensee’s obligation to keep the information submitted in support of the General License established by 10 CFR 150.20 current. Should a change occur that affects any of the information provided in the initial NRC Form 241, the licensee must submit a clarification or revision to NRC Form 241 to reflect that change.

The General License in 10 CFR 150.20 is established on a calendar-year basis. Therefore, an Agreement State licensee proposing to conduct licensed activities in NRC jurisdiction must file an initial NRC Form 241 before engaging in such activities for the first time in *each* calendar year. Licensed activities conducted in NRC jurisdiction, except for those conducted in offshore waters, are limited to 180 days in any calendar year.

Generally, Agreement State licensee management has a responsibility for all aspects of the radiation safety program, including, but not limited to, the following:

- C Radiation safety, security and control of radioactive materials, and compliance with regulations
- C Completeness and accuracy of the radiation safety records and all information provided to NRC (10 CFR 30.9, 10 CFR 40.9, 10 CFR 70.9)
- C Knowledge of the contents of the Agreement State license and NRC Form 241
- C Meticulous compliance with current NRC and DOT regulations and the licensee’s operating and emergency procedures
- C Commitment to provide adequate resources (including space, equipment, personnel, time, and, if needed, contractors) to the radiation protection program to ensure that the public and workers are protected from radiation hazards and that meticulous compliance with regulations is maintained
- C Selection and assignment of a qualified individual to serve as the Radiation Safety Officer (RSO) for licensed activities.

NRC expects Agreement State licensee management to conduct its licensed activities within NRC jurisdiction in compliance with all terms and conditions of their specific license issued by

## MANAGEMENT RESPONSIBILITY

the Agreement State, except such terms and conditions as are contrary to the requirements of 10 CFR 150.20. The General Licenses provided in 10 CFR 150.20 are subject to all the provisions of the Act, now or hereafter in effect, and to all applicable rules, regulations, and orders of the Commission. Therefore, licensees are expected to notify NRC in a timely manner of a change that affects the information provided in the initial NRC Form 241, allowing NRC adequate time to carry out its statutory mandate of ensuring that licensed materials are adequately safeguarded and that public health and safety are protected.

When working under reciprocity, Agreement State licensees must comply with current NRC requirements. Licensees need to be aware that NRC regulations may differ in some respects from Agreement State regulations. In addition, NRC regulations may change to include new requirements, before the Agreement States amend their regulations to include similar requirements.

## 4 APPLICABLE REGULATIONS

**It is the applicant's or licensee's responsibility to have copies of, and to abide by, the most recent applicable regulations.**

The following parts of 10 CFR, Chapter 1, contain regulations applicable to recognition of Agreement State licenses:

- C 10 CFR Part 2, "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders"
- C 10 CFR Part 19, "Notices, Instructions and Reports to Workers: Inspection and Investigations"
- C 10 CFR Part 20, "Standards For Protection Against Radiation"
- C 10 CFR Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material"
- C 10 CFR Part 31, "General Domestic Licenses for Byproduct Material"
- C 10 CFR Part 34, "Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations"
- C 10 CFR Part 35, "Medical Use of Radioactive Material"
- C 10 CFR Part 39, "Licenses and Radiation Safety Requirements for Well Logging"
- C 10 CFR Part 40, "Domestic Licensing of Source Material"
- C 10 CFR Part 70, "Domestic Licensing of Special Nuclear Material"
- C 10 CFR Part 150, "Exemptions and Continued Regulatory Authority in Agreement States and In Offshore Waters Under Section 274"
- C 10 CFR Part 170, "Fees for Facilities, Materials, Import and Export Licenses and Other Regulatory Services Under the Atomic Energy Act of 1954, as Amended."

To request copies of the above documents, call the Government Printing Office's (GPO) order desk in Washington, DC at (202) 512-1800. Order the two-volume bound version of Title 10, Code of Federal Regulations, Parts 0-50 and 51-199 from the GPO, Superintendent of Documents, Post Office Box 371954, Pittsburgh, PA 15250-7954. Or, contact the GPO electronically at <<http://www.gpo.gov>>. Request single copies of the above documents from NRC Regional Offices (see Figure 2.2 for addresses and telephone numbers). Note that NRC publishes amendments to its regulations in the *Federal Register*.

NRC regulations are also available electronically at NRC's Internet web site at <<http://www.nrc.gov/NRC/CFR.html>>.





## 5 HOW TO FILE

### 5.1 PAPER APPLICATION

Agreement State licensees requesting reciprocity should do the following:

- C Complete NRC Form 241 (Appendix A) Items 1 through 19.
- C Complete NRC Form 241 Items 8 through 15 on supplementary pages, if required.
- C For each separate sheet that is submitted with NRC Form 241, identify and key it to the item number on the form or the topic to which it refers.
- C Submit all supplementary pages on 8-1/2 x 11 inch paper.
- C Avoid submitting proprietary information unless it is absolutely necessary. See Chapter 8, "Proprietary Information" and Appendix C for additional information regarding the submission of proprietary or other sensitive information.
- C At least 3 days before beginning activities, file an original NRC Form 241, four copies of the licensee's current Agreement State license, and the appropriate fee, with the appropriate NRC Regional Office.
- C Retain one copy of NRC Form 241 for future reference.

Filing of NRC Form 241 by facsimile is acceptable provided: (1) the facsimile contains, in addition to the completed NRC Form 241, a copy of the current Agreement State license and a copy of the check or credit card application that will be mailed to meet fee requirements, if appropriate; (2) the Agreement State licensee confirms that NRC has received the facsimile; and (3) NRC receives, within 3 days, NRC Form 241, four copies of the Agreement State license, and the appropriate fee, if applicable.

All NRC Forms 241 will be available for review by the general public. If it is necessary to submit proprietary information, follow the procedure in 10 CFR 2.790. Failure to follow this procedure could result in disclosure of the proprietary information to the public or substantial delays in processing the form. Employee personal information – i.e., home address, home telephone number, social security number, date of birth, radiation dose information – should not be submitted unless NRC specifically requests it. Additional information is provided in Chapter 8, "Proprietary Information."

As explained in the "Foreword," NRC's new licensing process will be faster and more efficient, in part, through acceptance and processing of electronic forms at some future date. NRC will continue to accept paper forms. However, these will be scanned and put through an optical character reader (OCR) to convert them to electronic format. To ensure a smooth transition, licensees are requested to follow these suggestions:

## HOW TO FILE

- C Submit printed or typewritten, not handwritten, text on smooth, crisp paper that will feed easily into the scanner.
- C Choose typeface designs that are sans serif, such as **Arial, Helvetica, Futura, Univers**; the text of this document, for example, is in a serif font called **Times New Roman**.
- C Choose 12-point or larger font size.
- C Avoid stylized characters such as script, italic, etc.
- C Be sure the print is clear and sharp.
- C Be sure there is high contrast between the ink and paper (black ink on white paper is best).

## 5.2 ELECTRONIC APPLICATION

As the electronic licensing process develops, it is anticipated that NRC may provide mechanisms for filing initial NRC Forms 241, revisions, and clarifications via diskettes or CD-ROM, and through the Internet. Additional filing instructions will be provided as these new mechanisms become available. The existing paper process will be used until the electronic process is available.

## 6 RECIPROCITY FEES

Submission of an NRC Form 241 (initial and revision) must be accompanied by the appropriate fee. Agreement State licensees should refer to Category 16 of 10 CFR 170.31 to determine the amount of the fee. No fee is currently required for clarifications.

NRC will not process initial or revised NRC Forms 241 prior to fee receipt, if applicable. However, if the facsimile method is used to file for reciprocity, NRC Form 241 will be processed as long as the facsimile submittal includes a copy of the check or credit card application that will be mailed to meet the applicable fee requirement. Once technical review has begun, no fees will be refunded; fees will be charged regardless of NRC's disposition of an NRC Form 241 or the withdrawal of an NRC Form 241. The exception is a case in which it is determined that the proposed work location is *not* in NRC jurisdiction and therefore filing of NRC Form 241 is not warranted. Agreement State licensees should consult 10 CFR 170.11 for additional information on exemptions from licensing fees.

Direct all questions about NRC fees to the Office of the Chief Financial Officer (OCFO) at NRC Headquarters in Rockville, Maryland, (301) 415-7554, or call NRC's toll free number (800) 368-5642 and ask for extension 415-7554.



## **7 CONTENTS OF NRC FORM 241**

Agreement State licensees are required to complete NRC Form 241 identifying proposed activities in non-Agreement States, in areas of exclusive Federal jurisdiction within Agreement States, or in offshore waters. Licensees should file the completed NRC Form 241 with the NRC Regional Office in which the Agreement State that issued their license is located.

In completing NRC Form 241, the Agreement State licensee must provide sufficient information to enable NRC to conduct inspections. If NRC Form 241 contains omissions or errors, NRC staff will first try to resolve them by telephone with the Agreement State licensee within 3 days of receipt of NRC Form 241. If the discrepancies can be resolved by telephone, NRC staff will mark the form with the corrections and continue processing the form. NRC staff will sign the form and return a copy to the licensee once its review is complete.

If the deficiencies cannot be resolved by telephone, NRC staff will send a letter requesting the necessary information, identifying to the Agreement State licensee the deficiencies and informing the licensee that NRC will continue its review on receipt of the requested information. The Agreement State licensee will also be informed that work is not to be started in areas of exclusive Federal jurisdiction, in non-Agreement States, or in offshore waters until NRC receives the required information and completes its review.

Agreement State licensees that do not meet the requirements of 10 CFR 150.20 will be informed that they do not qualify for the General License and may not conduct licensed activities in NRC jurisdiction.

### **7.1 ITEM 1: NAME OF LICENSEE**

List the licensee's name as identified on the Agreement State license (person or firm proposing the activities).

### **7.2 ITEM 2: TYPE OF REPORT**

When submitting NRC Form 241, the Agreement State licensee is required to mark the appropriate box.

#### **Initial Filing:**

Agreement State licensees seeking to conduct activities under reciprocity in areas of exclusive Federal jurisdiction, non-Agreement States, or in offshore waters, *for the first time in a calendar year*, are required to submit NRC Form 241.

**Revision:**

A revision may include additional work locations or clients, changes to the radioactive material, or work activities different from that described in the information submitted on the initial NRC Form 241.

**Clarification:**

Clarification provides information that modifies administrative items of NRC Form 241, clarifies or deletes specific locations of work sites, changes work site technicians, or adds or deletes dates of work different from the initial NRC Form 241.

**7.3 ITEM 3: ADDRESS OF LICENSEE**

Provide the mailing address where correspondence should be sent. A Post Office box number is an acceptable mailing address. The mailing address specifically identified on the Agreement State license should be used.

Notify NRC of any changes in mailing address; these changes are considered a Clarification.

**7.4 ITEM 4: LICENSEE CONTACT**

Identify the individual who can answer questions about NRC Form 241. This is typically the current Radiation Safety Officer (RSO), unless the licensee has named a different person as the contact. NRC will contact this individual if there are questions about the form. Notify NRC of contact person changes as a Clarification.

**7.5 ITEM 5: TELEPHONE NUMBER**

Provide a telephone number for the individual who can answer questions about NRC Form 241. Notify NRC of telephone number changes as a Clarification.

**7.6 ITEM 6: FACSIMILE NUMBER**

Provide a facsimile number for the individual who can answer questions about NRC Form 241. Notify NRC of facsimile number changes as a Clarification.

## **7.7 ITEM 7: ACTIVITIES TO BE CONDUCTED IN NON-AGREEMENT STATES UNDER THE GENERAL LICENSE GIVEN IN 10 CFR 150.20**

Check the appropriate box corresponding to the activities you propose conducting under the General License. If the activity is not specifically identified, check the “other” box and provide a description of the activity. If you will be conducting industrial radiography, confirm that you have registered with NRC as a package user as specified in 10 CFR 71.12(c)(3) and provide the packaging Certificate of Compliance numbers.

A legal entity that performs the same licensed activity under more than one Agreement State license may file only one NRC Form 241 for this activity in a calendar year. For example, a company authorized to conduct radiography under both a Texas license and a Mississippi license may file only one NRC Form 241 to conduct radiography in NRC jurisdiction, limiting their radiography activities in NRC jurisdiction to 180 days in a calendar year. However, a company holding two or more Agreement State licenses for different licensed activities may file one NRC Form 241 for each type of activity in any calendar year, allowing 180 days for each activity in NRC jurisdiction in a calendar year.

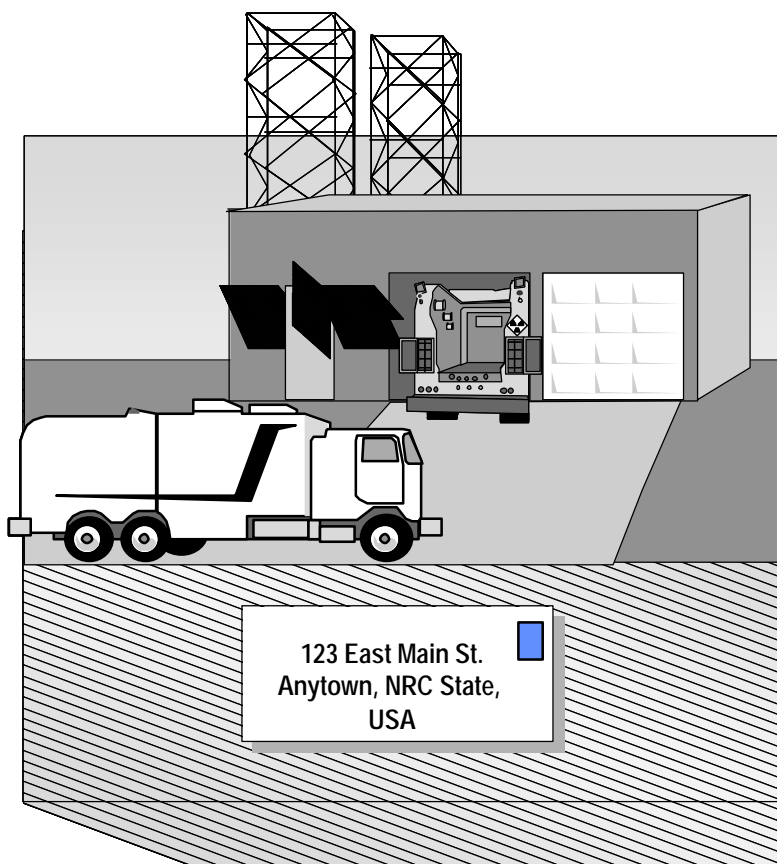
Type B transportation packages, such as some radiography devices or overpacks used with radiography devices, are issued a Certificate of Compliance number when NRC approves the package. Before the licensee’s first use of the package, the licensee must register with NRC. Licensees engaging in radiography activities must register with NRC as a user for each approved package issued a Certificate of Compliance number(s), in accordance with the requirements of 10 CFR 71.12. The registration application must be sent to the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The information provided must include the licensee’s name, license number, and the package identification number specified in the package approval. The supplier should provide the particular information to the licensee on request.

## **7.8 ITEM 8: CLIENT NAME, ADDRESS, CITY/COUNTY, STATE, ZIP CODE**

Provide the name of your client and their mailing address. A Post Office box number is an acceptable mailing address. If clients are added, the action is a Revision, and the required fee should be included. Any number of clients may be added at one time with payment of only one fee.

## 7.9 ITEM 9: ACTUAL PHYSICAL ADDRESS OF WORK LOCATION

Specify the street address, city, and state or other descriptive address (e.g., on Highway 10, 5 miles east of the intersection of Highway 10 and State Route 234, Anytown, State) for each work location. If the job site is linear and mobile (e.g., pipeline construction, multiple bridge sites), the descriptive address should be sufficient to allow an NRC inspector to find the work location. A Post Office Box address and locations identified such as “temporary job sites in the United States” or “in the State of \_\_\_\_\_” are not acceptable. If necessary, provide directions from a nearby recognizable location such as a village or Post Office.



**Figure 7.1 Work Location.** *You Will Be Able to Provide a “Complete Address” For Some Work Locations.*





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050400

**Figure 7.2 Remote Work Location.** *You Will Need to Provide a “Descriptive Address” of Remote Work Locations, e.g., well site in the Gulf of Mexico (specify latitude and longitude).*

## **7.10 ITEM 10: CLIENT TELEPHONE NUMBER**

Provide a telephone number for the client(s) identified in Item 8. The telephone number should be for an individual who is knowledgeable about the work to be conducted. Notify NRC of telephone number changes as a Clarification.

## **7.11 ITEM 11: WORK LOCATION TELEPHONE NUMBER**

Provide a telephone number at the work location for a licensee or client contact who can answer questions concerning the licensed activities at the site. Changes to the work location telephone number are a Clarification.

## **7.12 ITEM 12: DATES SCHEDULED**

Provide the date span identifying the start and end dates for each location.

It is acceptable on the Initial Filing or Revisions to indicate tentative dates or 180 days from January 1 through December 31, provided you submit a Clarification when adding or deleting

dates as they become known. It is important that you track the days of use. Clarify each addition or deletion of days of work, when applicable. The need to delete work dates becomes important when you approach the 180-day limit.

*Example:* The initial NRC Form 241 may list March 1 to March 31 for the site at the Bisco pipeline; however, because of rain, work was not performed on March 2 through March 10. The licensee should submit a Clarification to delete these dates, because it may become important later in the calendar year should the work approach the 180-day limit.

### 7.13 ITEM 13: NUMBER OF WORK DAYS

Provide the total number of days scheduled for use at the temporary job site.

Reciprocity in each calendar year (e.g., January 1 through December 31) is limited to 180 days. A “calendar day of use” is one on which you store or use licensed material in NRC jurisdiction. Licensed activities conducted concurrently (i.e., on the same day) at different locations within NRC jurisdiction count as one calendar day of use.

Each temporary location should have its own Location Reference Number, and each day of use at that location should be reported. A Clarification is used when updating or providing new dates for the same temporary location.

*Example:* A licensee stores material at Site A on Monday, conducts licensed activities at Site A and Site B on Tuesday, and conducts licensed activities only at Site A on Wednesday. The total days of use are 3.

### 7.14 ITEM 14: ADD

When submitting a clarification, mark this field for the days specified in Item 12, “Dates Scheduled.” The number of days may be the same as the entire interval, the sum of a series of intervals, or may be smaller than the interval.

<i>Example:</i>	Initial Notification	January 1-8, 2000	(Dates Scheduled)	4 (No. of work days)
	Clarification	February 1-4, 2000	(Dates Scheduled)	4 (Add)

## 7.15 ITEM 15: DELETE

When submitting a clarification, mark this field if the dates specified in Item 12, “Dates Scheduled,” are to be deleted for a specified work site. The number of days may be the same as the entire interval, the sum of a series of intervals, or may be smaller than the interval.

**Example:** Initial Notification January 1-8, 2000 (Dates Scheduled) 4 (No. of work days)  
Clarification January 1-4, 2000 (Dates Scheduled) 4 (Delete)

## 7.16 ITEM 16: LOCATION REFERENCE NUMBER

NRC will generate a Location Reference Number for each work location in order to track reciprocity activities. An NRC-signed copy of NRC Form 241, which identifies the Location Reference Number corresponding to each work location, will be returned to the licensee. Licensees should reference the appropriate Location Reference Number when submitting Revisions or Clarifications.

## 7.17 ITEM 17: LIST RADIOACTIVE MATERIAL, WHICH WILL BE POSSESSED, USED, INSTALLED, SERVICED, OR TESTED

List radioactive material that will be possessed, used, installed, serviced, or tested. Include a description of the type and quantity of radioactive material, sealed sources, or devices to be used. For sealed sources and/or devices, include the model number.

**Example:** Portable Moisture/density gauge, (manufacturer, model), Am 241-185 gigabecquerels; Cs 137-370 megabecquerels.

## 7.18 ITEM 18: AGREEMENT STATE SPECIFIC LICENSE WHICH AUTHORIZES THE UNDERSIGNED TO CONDUCT ACTIVITIES

**License Number:** Provide the Agreement State license number that authorizes the activity.

**State:** Name the Agreement State that issued the license.

**Expiration Date:** Provide the expiration date of the Agreement State license.

If the license expiration date is in the current calendar year, the licensee may work under the license until the expiration date. No work in NRC jurisdiction may be done after the expiration date, unless the Agreement State has provided a copy of the Deemed Timely Letter, indicating that a renewal is pending and that the Agreement State license continues in effect. When the Agreement State authority has completed action on the renewal, a copy of the license shall be forwarded to the NRC Regional Office.

## **7.19 ITEM 19: CERTIFICATION**

Print or type the name and title of your certifying officer (e.g., Radiation Safety Officer or Management Representative). This individual should sign and date NRC Form 241.

## **7.20 FOR NRC USE ONLY**

DO NOT WRITE IN THIS BLOCK. The NRC Regional Office reviewing official will sign and date NRC Form 241. The total usage days to date will be identified.

## 8 PROPRIETARY INFORMATION

Licensees or other persons wishing to protect proprietary information (i.e., information not to be disclosed to the public) submitted to NRC should request that such information be protected in accordance with 10 CFR 2.790.

Final NRC records and documents, including but not limited to correspondence to and from NRC regarding NRC Form 241, are available for public inspection and copying, in the absence of a compelling reason for nondisclosure. NRC recognizes that information regarding certain information on NRC Form 241 may be sensitive and that the public release of such information may have an adverse impact on the licensee. Licensees wishing NRC to withhold from public disclosure, as proprietary or confidential, the information contained in Items 8 to 12 of NRC Form 241, should submit an application for withholding accompanied by an affidavit. The application and affidavit must be submitted in accordance with 10 CFR 2.790, "Public inspection, exemption, requests for withholding." Failure to follow this procedure may result in disclosure of the proprietary information to the public or substantial delays in processing NRC Form 241.

The regulations list various forms of information that can be protected from public disclosure, including:

- C Trade secrets and commercial or financial information
- C Interagency or intragency memoranda or letters that would not be available by law to a party other than an agency in litigation with NRC
- C Certain records or information compiled for law enforcement purposes
- C Geological and geophysical information and data, including maps, or information concerning wells
- C Personnel, medical, or other information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

10 CFR 2.790 specifies the procedures and requirements for persons to submit sensitive information to NRC so that it will be properly protected from disclosure. 10 CFR 2.790 is available electronically at <<http://www.nrc.gov/NRC/CFR/PART002/part002-0790.html>>. As an alternative, a copy of 10 CFR 2.790 may be obtained upon request from NRC Regional Offices.

If NRC determines that the application or affidavit is deficient, i.e., does not contain the required information as outlined in 10 CFR 2.790, the applicant will be notified that additional information is needed and that the review will continue when the required information is received.

If the request is denied, in whole or in part, NRC will give the applicant the option of withdrawing the information or application. If the applicant decides not to withdraw the information or application, NRC will notify the applicant in writing that the request for withholding has been denied and that NRC will disregard any references concerning the proprietary status of the information.

## PROPRIETARY INFORMATION

Any part of NRC Form 241 that NRC has determined should be withheld from public disclosure should be handled in accordance with Management Directive 12.6, "NRC Sensitive Unclassified Information Security Program," and the applicant should be notified in writing that NRC plans to honor the request.

### **Response from the Licensee or Applicant**

For NRC to determine whether the information should be withheld from public disclosure, the following information should be provided in sufficient explanatory detail, in addition to the other requirements of 10 CFR 2.790:

- C A statement requesting that a document be withheld in whole or in part from public disclosure on the grounds that it contains sensitive information
- C An affidavit that:
  - Identifies the document or part sought to be withheld and the position of the person making the affidavit
  - Contains a full statement of the reasons why it is claimed that the information should be withheld from public disclosure. Such statement must include information regarding whether:
    - P The information has been held in confidence by its owner
    - P The information is of a type customarily held in confidence by its owner
    - P The information was transmitted to and received by NRC in confidence
    - P The information is available in public sources
    - P Public disclosure of the information sought to be withheld is likely to cause substantial harm to the competitive position of the owner of the information, taking into account the value of the information to the owner; the amount of effort or money, if any, expended by the owner in developing the information; and the ease or difficulty with which the information could be properly acquired or duplicated by others.

An affidavit submitted by a company must be executed by an officer or upper-level management official. This individual must have been specifically delegated the function of reviewing the information sought to be withheld and be authorized to apply for its withholding on behalf of the company. The affidavit must be executed by the owner of the information, even though the information sought to be withheld is submitted by another person.

The statement and affidavit must be submitted at the same time that the information sought to be withheld is filed with NRC. The information sought to be withheld should be detailed separately, with any information specified in the affidavit as trade secret, confidential, or privileged commercial or financial information so indicated. If an NRC Form 241 has already been submitted for the calendar year, the licensee must submit an application for withholding and an

affidavit within 3 days of NRC's receipt of Form 241. Once NRC agrees with the request for withholding, the request will be maintained as valid for as long as the Agreement State licensee continues to perform reciprocity activities. If the licensee skips a year between filing a reciprocity report, the application and affidavit for withholding must be resubmitted for review.

Appendix C includes a checklist for requests for withholding information from public disclosure.

- C Anyone submitting a request to withhold information from public disclosure should thoroughly review 10 CFR 2.790 and be familiar with its requirements and limitations.
- C Anyone submitting commercial or financial information they believe to be privileged, confidential, or trade secret must remember that the policy of NRC is to achieve an effective balance between legitimate concerns for the protection of competitive positions and the right of the public to be fully apprised of the basis for, and effects of, licensing or rule-making actions. It is within the discretion of NRC to withhold such information from public disclosure.

NRC staff should review and follow the procedures in Appendix D when handling information that a licensee or applicant has requested be withheld from public disclosure.





## **Appendix A**

### **United States Nuclear Regulatory Commission Form 241**



<b>NRC FORM 241</b> (7-1999)		<b>U.S. NUCLEAR REGULATORY COMMISSION</b>		<b>APPROVED BY OMB: NO. 3150-0013</b> Estimated burden per response to comply with this mandatory collection request: 15 minutes. This notification is required so that NRC may schedule inspection of the activities to ensure that they are conducted in accordance with requirements for protection of the public health and safety. Send comments regarding burden estimate to the Records Management Branch (T-6 E6), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by internet e-mail to bjs1@nrc.gov, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0013), Office of Management and Budget, Washington, DC 20503. If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.	
<b>REPORT OF PROPOSED ACTIVITIES IN NON-AGREEMENT STATES, AREAS OF EXCLUSIVE FEDERAL JURISDICTION, OR OFFSHORE WATERS</b> <i>(Please read the instructions before completing this form)</i>					
1. NAME OF LICENSEE (Person or firm proposing to conduct the activities described below)			2. TYPE OF REPORT <input type="checkbox"/> INITIAL <input type="checkbox"/> REVISION <input type="checkbox"/> CLARIFICATION		
3. ADDRESS OF LICENSEE (Mailing address or other location where licensee may be located)			4. LICENSEE CONTACT AND TITLE		
5. TELEPHONE NUMBER <i>(Include Area Code)</i>			6. FACSIMILE NUMBER <i>(Include Area Code)</i>		
7. ACTIVITIES TO BE CONDUCTED UNDER THE GENERAL LICENSE GIVEN IN 10 CFR 150.20 <input type="checkbox"/> WELL LOGGING <input type="checkbox"/> LEAK TESTING AND/OR CALIBRATIONS <input type="checkbox"/> THERAPY/IRRADIATOR SERVICE <input type="checkbox"/> PORTABLE GAUGES <input type="checkbox"/> OTHER (Specify) ⇒ _____ <input type="checkbox"/> RADIOGRAPHY    ⇒ REGISTERED AS USER OF PACKAGING (CERTIFICATES OF COMPLIANCE NUMBERS) _____					
8. CLIENT NAME, ADDRESS, CITY/COUNTY, STATE, ZIP CODE			9. ACTUAL PHYSICAL ADDRESS OF WORK LOCATION <i>(Street and Number or other location. Give as complete an address or directions as possible.)</i>		
10. CLIENT TELEPHONE NUMBER <i>(Include Area Code)</i>			11. WORK LOCATION TELEPHONE NUMBER <i>(Include Area Code)</i>		
12. DATES SCHEDULED FROM _____ TO _____		13. NUMBER OF WORK DAYS	14. ADD	15. DELETE	16. LOCATION REFERENCE NUMBER  NUMBER TO BE ASSIGNED BY NRC
<b>LIST ADDITIONAL WORK SITES ON SEPARATE SHEET(S) TO INCLUDE ALL INFORMATION CONTAINED IN ITEMS 9-16 ABOVE.</b>					
17. LIST RADIOACTIVE MATERIAL, WHICH WILL BE POSSESSED, USED, INSTALLED, SERVICED, OR TESTED <i>(Include description of type and quantity of radioactive material, sealed sources, or devices to be used.)</i>					
18. AGREEMENT STATE SPECIFIC LICENSE WHICH AUTHORIZES THE UNDERSIGNED TO CONDUCT ACTIVITIES WHICH ARE THE SAME, EXCEPT FOR LOCATION OF USE, AS SPECIFIED IN ITEM 9. ABOVE: <i>(Four copies of the specific license must accompany the Initial NRC Form 241.)</i>			LICENSE NUMBER	STATE	EXPIRATION DATE
<b>19. CERTIFICATION (MUST BE COMPLETED BY APPLICANT)</b> I, THE UNDERSIGNED, HEREBY CERTIFY THAT: <ul style="list-style-type: none"> <li>a. All information in this report is true and complete.</li> <li>b. I have read and understand the provision of the general license 10 CFR 150.20 reprinted on the instructions of this form; and I understand that I am required to comply with these provisions as to all byproduct, source, or special nuclear material which I possess and use in non-Agreement States or offshore waters under the general license for which this report is filed with the U.S. Nuclear Regulatory Commission.</li> <li>c. I understand that activities, including storage, conducted in non-Agreement States under general license 10 CFR 150.20 are limited to a total of 180 days in calendar year. With the exception of work conducted in off-shore waters, which is authorized for an unlimited period of time in the calendar year.</li> <li>d. I understand that I may be inspected by NRC at the above listed work site locations and at the Licensee home office address for activities performed in non-Agreement States or offshore waters.</li> <li>e. I understand that conduct of any activities not described above, including conduct of activities on dates or locations different from those described above or without NRC authorization, may subject me to enforcement action, including civil or criminal penalties.</li> </ul>					
CERTIFYING OFFICER - RSO or Management Representative (Name and Title)			SIGNATURE		DATE
<b>WARNING: False statements in this certificate may be subject to civil and/or criminal penalties. NRC regulations require that submissions to the NRC be complete and accurate in all material respects. 18 U.S.C. Section 1001 makes it a criminal offense to make a willfully false statement or representation to any department or agency of the United States as to any matter within its jurisdiction.</b>					
<b>FOR NRC USE ONLY</b>	REVIEWING OFFICIAL (Typed/Printed Name and Title)		SIGNATURE		DATE
TOTAL USAGE -- DAYS TO DATE					



## **Appendix B**

### **Recommended Procedure to Obtain Jurisdiction Determinations for Federal Sites**



Licensees who are uncertain regarding the jurisdictional status of a proposed work site should take the following steps:

- C Obtain specific information regarding the location of the proposed work site (e.g., street address, range or township, building or hanger number, distance from a specific intersection, or other identifying details) and the identity of the Federal Agency controlling the proposed work site.
- C Call the Federal Agency's local contact (contract officer, base environmental health officer, District Office staff, Regional Office staff) and request information regarding the jurisdictional status of the proposed work site. It is recommended that licensees request such a statement of jurisdiction in writing. Otherwise, licensees should document for their records the name and title of the person at the Federal Agency who provided the determination and the date that it was provided.
- C If the work site is identified as falling under "exclusive Federal jurisdiction" and the licensee is an Agreement State licensee, the notification of proposed work (NRC Form 241) and, if available, a copy of the statement of jurisdiction from the Federal Agency should be submitted to the appropriate NRC Regional Office. In lieu of submitting NRC Form 241, Agreement State licensees may apply for a specific NRC license to operate in areas under NRC jurisdiction. If the licensee is an NRC licensee with authorization to work at temporary job sites, no additional action is required.
- C If the work site is identified as other than "exclusive Federal jurisdiction," the licensee should contact the Agreement State's Radiation Control Program Office within which the facility is located for information about that State's regulations.





## **Appendix C**

### **Checklist for Requests to Withhold Information from Public Disclosure**



In order to request that NRC withhold information contained in an NRC Form 241 from public disclosure, the applicant must submit the information and NRC Form 241, including an affidavit, in accordance with 10 CFR 2.790. The applicant should submit all of the following:

<input type="checkbox"/>	A proprietary copy of the information. Brackets should be placed around the material considered to be proprietary. This copy should be marked as proprietary.
<input type="checkbox"/>	A non-proprietary copy of the information. Applicants should white out or black out the proprietary portions (i.e., those in the brackets), leaving the non-proprietary portions intact. This copy should <b>not</b> be marked as proprietary.
<input type="checkbox"/>	An affidavit that:
<input type="checkbox"/>	Is notarized.
<input type="checkbox"/>	Clearly identifies (such as by name or title and date) the document to be withheld.
<input type="checkbox"/>	Clearly identifies the position of the person executing the affidavit. This person must be an officer or upper-level management official who has been delegated the function of reviewing the information the company is seeking to withhold and authorized to apply for withholding on behalf of the company.
<input type="checkbox"/>	States that the company submitting the information is the owner of the information or is required, by agreement with the owner of the information, to treat the information as proprietary.
<input type="checkbox"/>	Provides a rational basis for holding the information in confidence.
<input type="checkbox"/>	Fully addresses the following issues:
<input type="checkbox"/>	Is the information submitted to, and received by, NRC in confidence? Provide details.
<input type="checkbox"/>	To the best of applicant's knowledge, is the information currently available in public sources?
<input type="checkbox"/>	Does the applicant customarily treat this information, or this type of information, as confidential? Explain why.
<input type="checkbox"/>	Would public disclosure of the information be likely to cause substantial harm to the competitive position of the applicant? If so, explain why in detail. The explanation should include the value of the information to your company, amount of effort or money expended in developing the information, and the ease or difficulty for others to acquire the information.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, NRC may send copies of this information to NRC consultants working in that area. NRC will ensure that the consultants have signed the appropriate agreements for handling proprietary information.

## APPENDIX C

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, the applicant should promptly notify NRC. The applicant also should understand that NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes the information in question. In all review situations, if NRC makes a determination adverse to the above, the applicant will be notified in advance of any public disclosure.

## **Appendix D**

### **Procedures for NRC Personnel for the Protection of Proprietary Information Submitted to NRC**



10 CFR 2.790 permits individuals submitting documents to NRC that contain trade secrets, privileged or confidential commercial, or financial information to request that such information be held in confidence (i.e., withheld from public disclosure).

1. Upon receipt of a document accompanied by a request that the document be treated as proprietary information, the Division receiving the request will determine within 7 working days, whether the justification provided by the submitter supports a finding that the information qualifies for proprietary treatment and should be withheld from public disclosure. This determination will be made in consultation with the Regional Counsel or Office of General Counsel (OGC).

If the staff determines that the material submitted qualifies for proprietary withholding, the staff shall prepare a written response to the requester indicating that the material will be withheld from public disclosure. When the staff anticipates that the NRC review of the information will take longer than two weeks, the staff should send the requester an interim letter indicating how long the staff believes the NRC review will take.

2. In cases where the submitter has not already done so, each page or portion of a document containing proprietary information must be marked "PROPRIETARY INFORMATION." The staff shall ensure that neither the use nor the storage of such documents compromises its protected status. NRC staff should consult with Regional Counsel and management to ensure that ANY request for a document being withheld from public disclosure be properly resolved.
3. In cases where the staff determines that a submitted document does not qualify as proprietary information, either in whole or in part, the submitter must be informed within two weeks. This notification will state that the request for proprietary treatment is being denied, in whole or in part, describe the reason for the denial, and state that the document will be returned upon request provided that:
  - a. NRC does not need to retain the document for official action
  - b. The document has not been "captured" by any pending FOIA request
  - c. The information was not submitted in a rule-making proceeding that subsequently forms the basis for the final rule.

Regional Counsel will prepare the letter denying the request for proprietary treatment in coordination with the appropriate staff. The submitter must be so advised when a document is retained for any of the above reasons. Documents that qualify for return shall be returned within 7 days of the determination by certified mail.

4. The submitter must be informed of any denial of a request for proprietary treatment before:

## APPENDIX D

- a. NRC relies on the document as the basis for a final rule
  - b. The document is used in any substantive manner
  - c. The staff submits the document to an advisory committee
  - d. The document is considered by NRC in an open NRC meeting under the Sunshine Act.
5. NRC staff with questions regarding the proper handling of sensitive information should contact their Regional Counsel or the OGC.

<p><b>Reference:</b> September 12, 1994, Memorandum for the EDO to Office Directors and Regional Administrators on “Review of Proprietary Documents.”</p>
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## **Appendix E**

### **Documents Considered in the Preparation of this Report**



This draft report incorporates and updates the guidance previously found in the Policy and Guidance Directives (P&GDs), Information Notices (INs), and Technical Assistance Requests (TARs) listed below. Other NRC documents such as Manual Chapters (MCs), Inspection Procedures (IPs), and Memoranda of Understanding (MOU) were also consulted during the preparation of this draft report. *When this draft report is issued in final form, the documents marked with an asterisk (\*) will be considered superseded and should not be used.*

**Table E.1 List of Policy and Guidance Directives, Information Notices, and Technical Assistance Requests**

<b>Document Identification</b>	<b>Title</b>	<b>Date</b>
* P&GD 83-19	Jurisdiction at Reactor Facilities	09/16/83
* P&GD 84-17	Jurisdiction for 10 CFR Parts 30, 40, and 70 Licenses at Reactor Facilities	10/24/84
P&GD 91-03	Implementation of Final Revisions to 10 CFR Parts 170 and 171 on Inspection and Annual Fees	08/22/91
* IN 90-15	Reciprocity: Notification of Agreement State Radiation Control Directors Before Beginning Work in Agreement States	03/07/90
TAR	Burial of Scandium-46 Contaminated Soil	12/30/89
TAR	Request for Clarification of 10 CFR 150.20 Requirements for Activities in Offshore Waters	11/06/91
TAR	Clarification of Jurisdiction of Licensable Material	04/08/93
TAR	Review of U.S. Air Force Submittals Dated 05/29/91 and 08/19/91	06/23/93
TAR	Inquiries on NRC's Jurisdiction in Antarctica	09/16/93
TAR	Reciprocity Issue: Exemption Request to Work at DOE Site Without Obtaining a Specific License	01/11/94